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June 22, 2017

**By ECF**

Honorable Lewis A. Kaplan  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
Court Room 21B  
New York, NY 10007-1312

Re: *Trueex, LLC et al v. Markitserv Limited et al.*, Case No. 17-cv-03400

Dear Judge Kaplan:

We write on behalf of Plaintiffs to respectfully request that the Court resolve a discovery dispute between the parties by so-ordering the proposed discovery schedule set forth below, which we believe would serve to ensure that this matter is trial-ready on the schedule set by the Court in its Scheduling Order dated June 15, 2017. If the Court should so direct, Plaintiffs are of course prepared to proceed before the Magistrate Court.

Following the June 6, 2017 conference, at Plaintiffs' request, the parties met and conferred to negotiate a discovery schedule. The parties have reached agreement on dates for most of the schedule, with one significant exception: Defendants have refused to agree to—or even propose—any date whatsoever for the substantial completion of the parties' document productions, insisting that they will not even discuss such a deadline until after discovery has commenced. By taking this position, Defendants are refusing to provide any assurance that they will complete their document production prior to the start of fact witness depositions, or even in advance of the Court-Ordered exchange of expert reports, which is set for November 6, 2017. A substantial completion date is necessary to ensure that discovery proceed in an efficient and orderly manner.

Below is Plaintiffs' proposed schedule, which is keyed against those deadlines the Court has already set in its Scheduling Order. In addition to the Court-Ordered dates and the parties'

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agreed-upon dates, which are indicated in bold, Plaintiffs propose a deadline of October 2, 2017 for the substantial completion of the parties' document productions. October 2 is a logical deadline, both to ensure that documents are produced in advance of Defendants' agreed-upon date, October 9, 2017, for the exchange of privilege logs, and to ensure adequate time for witness depositions ahead of the close of fact discovery on November 1.

**June 23, 2017:** The parties will exchange initial disclosures.

**June 27, 2017:** The parties will exchange their second sets of document requests, which shall supersede the parties' preliminary injunction document requests, and will meet and confer on custodians and search terms.

**July 14, 2017:** Objections to second sets of requests for production are due.

**July 15, 2017:** Deadline for service of privilege logs for documents withheld in response to preliminary injunction document requests.

**October 2, 2017:** Deadline for substantial completion of document productions, with productions to begin earlier on a rolling basis.

**October 9, 2017:** Deadline for service of privilege logs for documents withheld in response to second sets of document requests.

**November 1, 2017:** Close of fact discovery.

**November 1, 2017:** Earliest date for service of contention interrogatories.

**November 6, 2017:** Court-Ordered date for exchange of initial expert disclosures.

**November 27, 2017:** Court-Ordered date for exchange of rebuttal expert disclosures.

**January 5, 2018:** Court-Ordered date for close of all discovery.

**January 19, 2018:** The parties will exchange final witness lists, with option to depose any witnesses not previously deposed in advance of trial.

**February 5, 2018:** Court-Ordered date for filing pretrial order, proposed jury instructions, and requested voir dire questions.

**March 12, 2018:** Court-Ordered trial date.

As set forth above, an October 2 deadline for the substantial completion of document productions would ensure that the parties remain on pace to meet all other pertinent deadlines, including the Court-Ordered start of expert discovery (November 6, 2017) and completion of all discovery (January 5, 2018). Plaintiffs have sought to negotiate an appropriate substantial

completion date with Defendants, but Defendants have refused even to engage. We therefore respectfully request that the Court enter the above schedule, which will ensure that the parties are prepared to proceed to trial on the expedited basis the Court has directed.

Respectfully submitted,

/s/ Daniel L. Brockett

Daniel L. Brockett

cc: Counsel of Record